STEPHEN D. DEMIK
California State Bar No. 221167
FEDERAL DEFENDERS OF SAN DIEGO, INC.
225 Broadway, Suite 900
San Diego, California 92101-5030
Telephone: (619) 234-8467

Attorneys for Ms. Morones

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

(**HONORABLE M. JAMES LORENZ**)

UNITED STATES OF AMERICA, Plaintiff, v. JULIA MORONES, Defendant.	)	CASE NO. **08CR2019-L** DATE: July 23, 2008 TIME: 10:30 a.m. NOTICE OF MOTIONS AND MOTIONS: (1) TO COMPEL DISCOVERY; AND (2) FOR LEAVE TO FILE FURTHER MOTIONS

TO: KAREN P. HEWITT, UNITED STATES ATTORNEY:
MICHAEL CROWLEY, ASSISTANT UNITED STATES ATTORNEY.

PLEASE TAKE NOTICE that on July 23, 2008, or as soon thereafter as counsel may be heard, the defendant, Julia Morones, by and through her counsel, Stephen D. Demik and Federal Defenders of San Diego, Inc., will ask this Court to enter an order granting the following motions.

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MOTIONS

The defendant, Julia Morones, by and through his attorneys, Stephen D. Demik and Federal Defenders of San Diego, Inc., pursuant to the United States Constitution, the Federal Rules of Criminal Procedure, and all other applicable statutes, case law and local rules, hereby moves this Court for an order:

1) to compel discovery; and
2) for leave to file further motions.

These motions are based upon the instant motions and notice of motions, the attached statement of facts and memorandum of points and authorities, and all other materials that may come to this Court's attention at the time of the hearing on these motions.

Respectfully submitted,

Dated: July 9, 2008

/s/ Stephen D. Demik
STEPHEN D. DEMIK
Federal Defenders of San Diego, Inc.
Attorneys for Ms. Morones

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. JULIA MORONES, Defendant.	Case No. 08CR2019-L **CERTIFICATE OF SERVICE**

Counsel for Defendant certifies that the foregoing pleading, is true and accurate to the best of her information and belief, and that a copy of the foregoing has been electronically served this day upon:

U S Attorney CR
Efile.dkt.gc2@usdoj.gov

mailed to: Ms. Julia Morones

Dated: July 9, 2008

/s/ Stephen D. Demik
STEPHEN D. DEMIK
Federal Defenders of San Diego, Inc.
225 Broadway, Suite 900
San Diego, CA 92101-5030
(619) 234-8467 (tel)
(619) 687-2666 (fax)
E-mail: Stephen_Demik@fd.org

STEPHEN D. DEMIK
California State Bar No. 221167
FEDERAL DEFENDERS OF SAN DIEGO, INC.
225 Broadway, Suite 900
San Diego, California 92101-5030
Telephone: (619) 234-8467

Attorneys for Ms. Morones

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

(**HONORABLE M. JAMES LORENZ**)

UNITED STATES OF AMERICA, Plaintiff, v. **JULIA MORONES,** Defendant.	)	CASE NO. **08CR2019-L** STATEMENT OF FACTS AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT'S MOTIONS.

I.

PROCEDURAL HISTORY

On June 17, 2008, the government filed a two-count indictment charging Ms. Morones with the conspiracy to distribute methamphetamine in violation of Title 21, United States Code, § 841(1), as well as one count for possession with intent to distribute 75 grams of methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and Title 18, United States Code §2. Ms. Morones has entered a not guilty plea to the charges. Her case was set for a pre-trial motions before this Court on July 23, 2008 at 10:30 a.m. [1]

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[1] Ms. Morones will be asking for a continuance on that date.

II.

STATEMENT OF FACTS[2]

On June 17, 2008, the Government obtained a two count Indictment charging Ms. Morones with Title 21 U.S.C. § 846 and 841(a) (1) - Conspiracy to Distribute Methamphetamine; Title 21 U.S.C. § 841(a)(1) Possession of Methamphetamine with Intent to Distribute; Title 18 § - Aiding and Abetting.

III.

MOTION TO COMPEL DISCOVERY

Ms. Morones requests the following discovery. Her request is not limited to those items that the prosecutor knows of. It includes all discovery listed below that is in the custody, control, care, or knowledge of any "closely related investigative [or other] agencies." *See United States v. Bryan*, 868 F.2d 1032 (9th Cir. 1989).

(1) Brady Information. The defendant requests all documents, statements, agents' reports, and tangible evidence favorable to the defendant on the issue of guilt and/or which affects the credibility of the government's case. Under *Brady v. Maryland*, 373 U.S. 83 (1963), impeachment as well as exculpatory evidence falls within the definition of evidence favorable to the accused. *United States v. Bagley*, 473 U.S. 667 (1985); *United States v. Agurs*, 427 U.S. 97 (1976).

(2) Any Proposed 404(b) Evidence. The government must produce evidence of prior similar acts under Fed. R. Crim. P. 16(a)(1) and Fed. R. Evid. 404(b) and any prior convictions which would be used to impeach as noted in Fed. R. Crim. P. 609. In addition, under Fed. R. Evid. 404(b), "upon request of the accused, the prosecution . . . shall provide reasonable notice in advance of trial . . . of the general nature" of any evidence the government proposes to introduce under Fed. R. Evid. 404(b) at trial. The defendant requests

[2] Facts referred to in this memorandum are based on information provided by the government. Ms. Morones does not admit their accuracy and reserves the right to challenge this information.

notice two weeks before trial to give the defense time to investigate and prepare for trial.

(3) Request for Preservation of Evidence. The defendant requests the preservation of all physical evidence that may be destroyed, lost, or otherwise put out of the possession, custody, or care of the government and which relate to the arrest or the events leading to the arrest in this case. This request includes, but is not limited to, the results of any fingerprint analysis, the defendant's personal effects, and any evidence seized from the defendant or any third party.

(4) Defendant's Statements. The defendant requests disclosure and production of all statements made by the defendant. This request includes, but is not limited to, the substance of any oral statement made by the defendant, Fed. R. Crim. P. 16(a)(1)(A), and any written or recorded statement made by the defendant. Fed. R. Crim. P. 16(a)(1)(B)(i)-(iii).

(5) Tangible Objects. The defendant seeks to inspect and copy as well as test, if necessary, all other documents and tangible objects, including photographs, books, papers, documents, alleged narcotics, fingerprint analyses, vehicles, or copies of portions thereof, which are material to the defense or intended for use in the government's case-in-chief or were obtained from or belong to the defendant. Fed. R. Crim. P. 16(a)(1)(E).[3]

(6) Expert Witnesses. The defendant requests the name, qualifications, and a written summary of the testimony of any person that the government intends to call as an expert witness during its case in chief. Fed. R. Crim. P. 16(a)(1)(G).

(7) Witness Addresses. The defendant requests access to the government's witnesses. Thus, counsel requests a witness list and contact phone numbers for each prospective government witness. Counsel also requests the names and contact numbers for witnesses to the crime or crimes charged (or any of the overt acts committed in furtherance thereof) who will not be called as government witnesses.

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[3] **Ms. Morones's counsel will request a minute order for the preservation of evidence and allowing the defense an opportunity to inspect the evidence in this case on July 23.**

(8) Jencks Act Material. Ms. Morones requests production in advance of trial of material discoverable under the Jencks Act, 18 U.S.C. § 3500. Advance production will avoid needless delays at pretrial hearings and at trial. This request includes any "rough" notes taken by the agents in this case. This request also includes production of transcripts of the testimony of any witness before the grand jury. *See* 18 U.S.C. § 3500(e)(1)-(3).

(9) Informants and Cooperating Witnesses. Ms. Morones requests disclosure of the name(s), address(es), and location(s) of all informants or cooperating witnesses used or to be used in this case, and in particular, disclosure of any informant who was a percipient witness in this case or otherwise participated in the crime charged against Ms. Morones. *Roviaro v. United States*, 353 U.S. 52, 61-62 (1957). The government must disclose any information derived from informants which exculpates or tends to exculpate Ms. Morones. *Brady v. Maryland*, 373 U.S. 83 (1963). The government must disclose any information indicating bias on the part of any informant or cooperating witness. *Id.*

(10) Residual Request. Ms. Morones intends by this discovery motion to invoke his rights to discovery to the fullest extent possible under the Federal Rules of Criminal Procedure and the Constitution and laws of the United States.

IV.

LEAVE TO FILE FURTHER MOTIONS

As information surfaces – via discovery provided by government, defense investigation, or an order of this court – the defense may need to file further motions, or to supplement existing motions. Therefore, Ms. Morones requests leave to file further motions.

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V.

CONCLUSION

Ms. Morones asks this Court to grant the above motions.

Respectfully submitted,

Dated: July 9, 2008

/s/ Stephen D. Demik
STEPHEN D. DEMIK
Federal Defenders of San Diego, Inc.
Attorneys for Ms. Morones